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May 22, 2024

VIA ECF

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *United States v. Hwang and Halligan,*
S1 22 Cr. 240 (AKH)**

Dear Judge Hellerstein:

The Government respectfully writes to request that the Court admit into evidence GX 3745, 3736, and 3783, which are Bloomberg chats between defendant Patrick Halligan and co-conspirator Scott Becker. These exhibits contain a verbatim record of a defendant's words to a co-conspirator, automatically captured by a communications platform used by the conspirators at the time, and reflect Halligan's awareness of, participation in, and advancement of the crimes with which he is charged. The Federal Rules of Evidence support the admission of these exhibits—separate from and in addition to the testimony of participants in the correspondence—and the Government should be permitted to present these exhibits to the jury to sustain its burden of proof.

As discussed below, each exhibit comports with the Rules of Evidence. The defense has stipulated to the authenticity of each record. Each message is probative of a specific aspect of Halligan's knowledge of, conduct in, or participation in the alleged racketeering scheme at a precise moment in time. And none of the messages may be excluded under the rule against hearsay: They contain Halligan's statements, admissible as non-hearsay party admissions under Rule 801(d)(2)(A), and Becker's statements, admissible as non-hearsay co-conspirator statements under Rule 801(d)(2)(E).

The Government respects the Court's preference for eliciting testimony from live witnesses over the protracted use of records and is endeavoring to prioritize it. The Government respectfully requests that the Court additionally accommodate the admission of essential documentary evidence as well. The Bloomberg messages to and from Halligan represent contemporaneous records of Halligan's conduct for which witness testimony is a complement, not a substitute. The messages contain Halligan's precise words. The messages contain precise time stamps. And the messages contain a complete record of a particular episode of written correspondence. Put simply, these messages have immense evidentiary value independent of the testimony of the participants in the written correspondence. The defendants have made clear and already argued directly to the jury that their central theory of the case is that Scott Becker's testimony is and will be false. The

Government should not be artificially restricted to presenting the evidence of Halligan's misconduct only through witness testimony when contemporaneous records of that misconduct are available to the jury.

The Government addresses the specific relevance of each exhibit below:

GX 3745

Relevant messages from GX 3745, attached hereto as Exhibit A, include the following:

Date and Time	Sender	Message
<i>[preceding messages omitted]</i>		
03/23/2021 16:10:15 UTC	PATRICK HALLIGAN	Are we going to be able to pay for these trades today?
03/23/2021 16:11:01 UTC	PATRICK HALLIGAN	I don't see how we can
<i>[messages omitted]</i>		
03/23/2021 16:24:59 UTC	PATRICK HALLIGAN	Has bill been asking for the sheet with the cash number on it at all today?
03/23/2021 16:25:22 UTC	PATRICK HALLIGAN	Will is asking me if bill knows about cash - to which I am like this is ridiculous
<i>[messages omitted]</i>		
03/23/2021 16:39:04 UTC	PATRICK HALLIGAN	Will said to call him when you can - you two need to flush things out a little
<i>[messages omitted]</i>		
03/23/2021 16:47:10 UTC	PATRICK HALLIGAN	Just call – we are in a crisis
<i>[subsequent messages omitted]</i>		

GX 3745 is a Bloomberg chat between Halligan and Becker on Tuesday, March 23, 2021, which was the day after Viacom announced its secondary stock offering. The chat shows that Halligan and Becker were in constant communication as Bill Hwang placed trades totaling over \$2.6 billion dollars that day, even as Archegos was running out of money, and that Halligan both

was aware of the unfolding insolvency crisis (contrary to later representations made to counterparties) and made efforts to facilitate Hwang's spending even while knowing that margin calls would be due the next day. To wit, Halligan asked "Are we going to be able to pay for these trades today?," adding, "I don't see how we can." Later, in wondering whether Hwang was aware of Archegos's desperate cash situation, Halligan added, "this is ridiculous." And Halligan then instructed Becker to call Tomita to discuss the dire situation, commenting that "we are in a crisis."

These messages are probative of, among other things, Halligan's participation in the racketeering conspiracy, and his close relationship with Becker, both of which the defense has disputed. The messages prove Halligan's awareness that Hwang spent his remaining excess cash to purchase more securities, which the Government alleges Hwang did in order to push up the relevant stock prices. These messages are probative of Halligan efforts to direct others, including Becker, to lie to the banks to cover up Hwang's actions. The precise timing of these messages is significant; that Halligan recognized early in the day on March 23, 2021 that Hwang was buying more securities than he could pay for is probative of Halligan's knowledge of the criminal scheme. Moreover, in opening statements, counsel for Halligan claimed the Government has "no real corroboration" for Becker's testimony. (Tr. 91). These messages corroborate Becker's testimony and should be admitted.

GX 3736

Relevant messages from GX 3736, attached hereto as Exhibit B, include the following:

Date and Time	Sender	Message
<i>[preceding messages omitted]</i>		
03/24/2021 11:37:50 UTC	PATRICK HALLIGAN	And no publishing anything before we get our heads together on stuff
<i>[messages omitted]</i>		
03/24/2021 15:29:58 UTC	PATRICK HALLIGAN	Did you get him?
03/24/2021 15:33:10 UTC	SCOTT BECKER	Yes, went with -we are trying to navigate the day, but unfortunately we can't give out any intraday P&L numbers
03/24/2021 15:33:33 UTC	PATRICK HALLIGAN	They have them already
03/24/2021 15:33:48 UTC	PATRICK HALLIGAN	They can run their own p&l

Date and Time	Sender	Message
[subsequent messages omitted]		

These messages are probative of Halligan's participation in the charged conspiracy. In them, Halligan directed Becker not to finalize any reports until they conferred on Archegos's cash levels ("no publishing anything before we get our heads together"). A few hours later, Halligan checked in on how Becker's conversation with Mr. Kurek from Nomura went ("Did you get him?"). Becker informed Halligan that he told Mr. Kurek that Archegos was unable to provide intraday profit and loss numbers ("we can't give out any intraday P&L numbers"), which was a story that William Tomita instructed Becker to use after Halligan had directed Becker to confer with Tomita on what to say. Becker told Nomura that story even though Archegos knew that its portfolio was down that day and could have provided that information to Nomura. Halligan's response to Becker that Nomura already had this information ("[T]hey have them already" and "They can run their own p&l") was false because, as Becker testified, Nomura did not have access to Archegos's full portfolio, only the portion held at Nomura.

GX 3783

Relevant messages from GX 3783, attached hereto as Exhibit C, include the following:

Date and Time	Sender	Message
[preceding messages omitted]		
03/25/2021 11:28:49 UTC	PATRICK HALLIGAN	You can drop off at 7:30 for CS - we are delayed DB by 10min
03/25/2021 11:29:08 UTC	SCOTT BECKER	Got it
03/25/2021 11:29:48 UTC	PATRICK HALLIGAN	Just deflect as best you can - nothing is getting solved with your call - it's what the traders do
03/25/2021 11:30:05 UTC	SCOTT BECKER	Understood,
03/25/2021 11:30:38 UTC	PATRICK HALLIGAN	"they have a plan in the works" "worked on it through the night"

Date and Time	Sender	Message
03/25/2021 11:31:09 UTC	PATRICK HALLIGAN	You don't have direct insight into that plan - but that it is expected to start moving at 9:30
03/25/2021 11:31:37 UTC	PATRICK HALLIGAN	Also -they sold some stuff overn[i]ght - they are working on this seriously and with measured urgency
<i>[subsequent messages omitted]</i>		

These messages are probative of Halligan's participation in the charged conspiracy. In them, Halligan provided Becker with "talking points" to use during a Credit Suisse credit call during the morning of Thursday, March 25, 2021. Among other things, Halligan directed Becker to avoid answering the bank's questions ("deflect as best you can") and to reassure the bank that Archegos had a viable plan to raise cash ("they have a plan in the works" and "they are working on this seriously and with measured urgency").

The timestamps on the messages in that chat reveal that Halligan and Becker were chatting ahead of and during the Credit Suisse credit call. Additionally, the fact that Halligan put quotation marks around certain statements is probative of his intent to mislead the banks with false information. Without the written chat in evidence, the jury would be deprived of the evidentiary value of those time stamps and quotation marks.

* * *

To be sure, the Government will continue to elicit testimony directly from Becker on the substance of his communications with Halligan in an effort to streamline and make digestible its presentation to the jury. Nor does the Government propose to make inefficient use of the jury's time by asking witnesses to read aloud each line the Bloomberg chats. Instead, the Government seeks to build the evidentiary record from which the Government may argue its case to the jury. It is of central importance that the Government be permitted to build a record of admissible evidence from which it can present argument in summation and defend a conviction against a motion under Rule 29 and on appeal. The messages themselves, including the timestamps and precise words used by Halligan and his co-conspirators, are critical, probative evidence on issues

that are central to the Government's case, and the law permits the Government to adduce such evidence at trial. *See, e.g., Old Chief v. United States*, 519 U.S. 172 (1997).

Respectfully submitted,

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Cc: Counsel of Record (via ECF)